

# House Daily Reader

**Thursday, February 10, 2000**

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# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

285D0028

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1005** - 2/4/00

Introduced by: Representatives Lintz, Chicoine, Engbrecht, Juhnke, McNenny, Sutton (Duane), Waltman, and Young and Senators Symens, Madden, Paisley, and Vitter at the request of the Interim Tax Assessment Committee

1 FOR AN ACT ENTITLED, An Act to use agricultural income value to determine the value of  
2 agricultural land and to conduct a pilot study on agricultural income value.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Notwithstanding the provisions of § 10-6-33, agricultural land shall be assessed based on its  
7 agricultural income value. The agricultural income value of agricultural land shall be determined  
8 on the basis of productivity and the annual earnings capacity of the agricultural land if the land  
9 is used for agricultural purposes. The productivity of land and its annual earning capacity shall  
10 be based on data collected and analyzed pursuant to sections 2 to 5, inclusive, of this Act.

11 Section 2. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 Agricultural income value is defined as the capitalized average annual earning capacity. The  
14 annual earning capacity shall be determined from share rent and, reduced by the estimated  
15 property taxes and marketing expenses incurred by agricultural land owners renting agricultural

land on a share basis. The capacity of the cropland to produce agricultural products shall be based on average yields for crops or plants under natural conditions. The capacity of noncropland to produce agricultural products shall be based on average acres per animal unit under natural conditions. For the purpose of this section, annual earning capacity for:

(1) Cropland is thirty percent of the annual gross income produced;

(2) Noncropland is twenty-five percent of the annual gross income capacity of the land based upon the animal carrying capacity of the land.

The economics department of South Dakota State University shall annually compute the average annual earning capacity of cropland and noncropland for each county using the data base defined in section 4 of this Act. The average annual earning capacity shall be capitalized at a rate of six percent to determine the capitalized average annual earning capacity. The economics department shall annually provide the secretary of revenue this information by June first.

Section 3. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as follows:

Before July first, the secretary of revenue shall annually provide each director of equalization the agricultural income value for each county as computed pursuant to section 2 of this Act. Before November first the director of equalization shall annually determine the assessed value of agricultural land. Agricultural land shall be assessed based on its agricultural income value and adjusted by the following factors:

(1) The capacity of the land to produce agricultural products as specified in section 2 of this Act; and

(2) The location, size, soil survey statistics, terrain, and topographical condition of the land including the climate, accessibility, and surface obstructions which can be documented.

Section 4. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The secretary of revenue shall enter into contracts with South Dakota State University and,  
3 if necessary, the South Dakota Agricultural Statistics Service for the purpose of creating a data  
4 base to determine the agricultural income value of agricultural land by county. A data base for  
5 an identifiable region within a county may be created if the director of equalization shows a need  
6 for establishing identifiable regions within a county. The secretary shall collect such data for  
7 1993, which will serve as the first year of the data base, and each year thereafter. The data base  
8 shall consist of the most recent eight years of data that have been collected and the years  
9 representing the highest and lowest agricultural income value shall be discarded from the data  
10 base. The data base for the 2002 assessment year shall consist of data from 1993 to 2000,  
11 inclusive, and the data base for each assessment year thereafter shall be adjusted accordingly.

12 Section 5. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 Agricultural land shall be divided by the director of equalization into categories, including  
15 cropland and noncropland, so that the categories reflect uses appropriate for the valuation of  
16 such land. Each category shall be divided into subclasses based on soil classification standards  
17 developed by the United States Department of Agriculture Natural Resources Conservation  
18 Service.

19 Section 6. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 Buildings and structures, other than normally occupied dwellings on agricultural land and  
22 automobile garages or portions of buildings used for that purpose, which are used exclusively  
23 for agricultural purposes and situated on agricultural land are hereby specifically classified for  
24 tax purposes as agricultural property and shall be assessed pursuant to § 10-6-33.

25 Section 7. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as

follows:

The agricultural income value for agricultural land as determined pursuant to section 1 of this Act represents eighty-five percent of the fair market value.

Section 8. That § 10-6-1 be amended to read as follows:

10-6-1. Terms used in this chapter mean:

- (1) "Credit," every claim and demand for money or other valuable thing and every annuity or sum of money receivable at stated periods, due or to become due, and all claims and demands secured by deeds or mortgages due or to become due, except for contracts for deed and mortgages, in which case the term means only the payment received each year under the contract or mortgage;
- (2) "District," township, municipality, or ward, as the case may be;
- (3) "Full agricultural land value," the value of agricultural land as determined by the application of this chapter;
- (4) "Money," gold and silver coin, treasury notes, bank notes, and every deposit which any person owning the same or holding in trust and residing in this state is entitled to withdraw in money on demand;
- (5) "Tract," "lot," "piece," or "parcel" of real property, or "piece or parcel of land," any contiguous quantity of land in the possession of, owned by, or recorded as, the property of the same claimant, person, or company;
- (6) "True and full value," for all real property, except agricultural land, the usual cash selling price at the place where the property to which the term is applied shall be at the time of the assessment.

Section 9. That § 10-6-33.1 be repealed.

~~10-6-33.1. The true and full value in money of agricultural land, as defined by § 10-6-31, which has been in primarily agricultural use for at least five successive years immediately~~

1 ~~preceding the tax year for which assessment is to be made shall be the market value as~~  
2 ~~determined for each county through the use of all comparable sales of agricultural land based on~~  
3 ~~consideration of the following factors:~~

4 ~~— (1) — The capacity of the land to produce agricultural products as defined in § 10-6-33.2;~~  
5 ~~and~~

6 ~~— (2) — The soil, terrain, and topographical condition of the property including but not limited~~  
7 ~~to capability, the land's use, climate, accessibility, and surface obstructions which can~~  
8 ~~be documented through an analysis of land selling prices.~~

9 ~~— The comparable sales that are used shall be evidenced by an instrument recorded with the~~  
10 ~~register of deeds of the county in which the land is located, if the date of such instrument and the~~  
11 ~~recording date is not more than two years prior to the assessment year.~~

12 Section 10. That § 10-6-33.2 be repealed.

13 ~~— 10-6-33.2. Capacity of land in agricultural use to produce agricultural products shall be based~~  
14 ~~on average yields under natural conditions, in the case of land producing crops or plants, and on~~  
15 ~~the average "acres per animal unit," in the case of grazing land; said average shall affect each~~  
16 ~~operating unit and shall be based on the ten-year period immediately preceding the tax year in~~  
17 ~~issue. In determining such capacity to produce, the county director of equalization and/or the~~  
18 ~~county board of equalization must take into consideration yields, and/or carrying capacity, as~~  
19 ~~determined by the soil conservation service, the agricultural stabilization and conservation~~  
20 ~~service, the extension service, federal land bank, and private lending agencies dealing with land~~  
21 ~~production capacities.~~

22 Section 11. That § 10-6-33.3 be repealed.

23 ~~— 10-6-33.3. Land or improvement on land within an operating unit which is not used incident~~  
24 ~~to an agricultural pursuit shall be separately listed and assessed and the income therefrom shall~~  
25 ~~not be used in determining the values for the purposes of §§ 10-6-33.1 and 10-6-33.2.~~

Section 12. That § 10-6-33.4 be repealed.

~~10-6-33.4. If agricultural land has been classified pursuant to chapter 10-10, land within these classifications and the classifications shall conform to the provisions of §§ 10-6-33.1 to 10-6-33.3, inclusive.~~

Section 13. That § 10-6-33.5 be amended to read as follows:

10-6-33.5. The assessment, valuation, equalization, and taxation of school and endowment lands shall be at the same level and on the same basis as lands assessed, valued, and equalized according to ~~§§ 10-6-33.1 to 10-6-33.4, inclusive~~ sections 1 to 5, inclusive, of this Act.

Section 14. That § 10-6-33.6 be repealed.

~~10-6-33.6. If the median value per acre in an identifiable region within a county deviates by more than ten percent from the county average, the county director of equalization may establish a separate market value per acre for the land defined by the director of equalization within that region.~~

Section 15. That § 10-6-33.7 be repealed.

~~10-6-33.7. Agricultural land in each county shall be divided into the eight classes defined by the United States Department of Agriculture's soil conservation service as published in its soil survey for each county. The county director of equalization shall, based on the agricultural lands soil survey classification, determine a value for each soil type. The value for each soil type shall be determined from sales of similar land based upon its soil survey classification, and as adjusted for the factors contained in subdivision 10-6-33.1(2). The sales used shall be sales of agricultural land that are sold for agricultural purposes.~~

Section 16. That § 10-6-33.12 be repealed.

~~10-6-33.12. For the purposes of §§ 10-6-33.8 and 10-6-33.9, there shall be a separate median sales to assessment ratio and coefficient of dispersion for agricultural and nonagricultural real property.~~

Section 17. That § 10-6-33.20 be repealed.

~~10-6-33.20. Any agricultural land, as defined in § 10-6-31.3, which is sold in an increment of seventy acres or less, may not be used for the purpose of valuing agricultural land. The sale of any agricultural land, which is not used for purpose of valuing agricultural property pursuant to this section, may not be used in any sales ratio study.~~

Section 18. That § 10-11-56.5 be repealed.

~~10-11-56.5. No sale of any land which is classified pursuant to § 10-6-58 may be used in any sales ratio study.~~

Section 19. That § 10-11-57 be repealed.

~~10-11-57. In order to determine the ratio for agricultural land assessed pursuant to § 10-6-33.1, the secretary of revenue shall compare the assessed valuations on properties used for tax purposes in the year sold with the agricultural values of those properties as determined under §§ 10-6-33.1 and 10-6-33.2.~~

Section 20. That § 10-12-31.1 be amended to read as follows:

10-12-31.1. Notwithstanding other provision of law, when applying the levies for school purposes, the county director of equalization of each county shall adjust the level of assessment in that district so that the level of assessment as indicated by the most recent assessment to sales ratio as provided for in § 10-11-55 and the most recent ~~assessment to full agricultural land value ratio~~ agricultural income value as provided for in ~~§ 10-11-57 section 1 of this Act~~ in that district are equal to eighty-five percent of market or agricultural income value. The Department of Revenue shall provide the director of equalization of each county all of the factors of adjustment necessary for the computations required in this section.

Section 21. Sections 1 to 3, inclusive, of this Act and sections 5 to 20, inclusive, of this Act are effective on July 1, 2002.

Section 22. The secretary of revenue shall conduct a pilot study concerning the use of



1 agricultural income value as a means to value agricultural land. The pilot study shall include an  
2 analysis of various capitalization rates and determine the impact of such rates on the total  
3 statewide assessed value of agricultural property and its relationship to the total statewide  
4 assessed value of all property. The pilot study shall include the counties of Clark, Moody,  
5 Turner, Brown, Hyde, Lyman, Corson, Meade, and Custer. The secretary shall, for the purpose  
6 of providing information, apply the provisions and procedures provided in this Act to value  
7 agricultural land in the selected counties. The secretary shall submit a report detailing the  
8 information collected to the Executive Board of the Legislative Research Council by March 31,  
9 2001. The Executive Board of the Legislative Research Council, after receipt of the pilot study,  
10 may implement an interim study to study the effects of the capitalization rate, preventing a tax  
11 shift between agricultural and nonagricultural property, and to evaluate the procedures used to  
12 determine agricultural income values, preventing tax shifts within agricultural property.

1    **BILL HISTORY**

2    1/11/00 First read in House and referred to Taxation. H.J. 13

3    1/20/00 Scheduled for Committee hearing on this date.

4    2/3/00 Scheduled for Committee hearing on this date.

5    2/3/00 Taxation Do Pass Amended, Passed, AYES 10, NAYS 2. H.J. 402

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

870D0098

## HOUSE LOCAL GOVERNMENT COMMITTEE

### ENGROSSED NO. **HB1010** - 2/9/00

Introduced by: The Committee on Local Government at the request of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain procedures for the formation and  
2 adjustment of boundaries of certain special districts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 6-16-2 be amended to read as follows:

5 6-16-2. The application for organization shall be a petition verified by one or more  
6 circulators by affidavit stating that each affiant personally witnessed the signatures on the petition  
7 and believe the signatures to be genuine. The petition shall be signed by at least twenty-five  
8 percent of the ~~landowners within the proposed district who are also~~ registered voters within the  
9 proposed district. If the proposed district is in two or more counties, a petition shall be filed in  
10 each county and each petition shall be signed by at least ~~twenty~~ twenty-five percent of the  
11 ~~landowners within the proposed district who are also~~ registered voters within the proposed  
12 district in that county. The petition shall be accompanied by a deposit covering the estimated  
13 costs as determined by the county auditor of the public notices and the conduct of the election  
14 for the formation of the district. If the district to be formed is a road district that contains no  
15 registered voters, the petition ~~requirements are based solely on~~ shall be signed by at least twenty-  
16 five percent of the landowners.

Section 2. That § 6-16-4 be amended to read as follows:

6-16-4. The county auditor shall publish the notice of the voter registration deadline at least once each week for two consecutive weeks, the last publication to be not less than twenty-five nor more than thirty days prior to the election. The auditor shall publish notices of election at least once each week for two consecutive weeks, the last publication to be not less than four nor more than ten days before the election in at least one legal newspaper of general circulation in the proposed district.

Section 3. That § 6-16-6 be amended to read as follows:

6-16-6. ~~A~~ Any person who ~~is a landowner in the proposed district and~~ is registered to vote and resides in the proposed district may vote in the elections provided for in § 6-16-5. However, the qualifications of a voter for irrigation district elections are provided in chapter 46A-4. Absentee voting is allowed pursuant to chapter 12-19 for the election on the question of formation of the special district or any other question to be voted on by the eligible voters of the district. If the district to be formed is a road district that contains no registered voters, voter eligibility is based solely on landowners. For the purpose of this section, a person resides in a proposed district if the person actually lives in the proposed district for at least thirty days in the last year.

Section 4. That § 31-12A-1.1 be amended to read as follows:

31-12A-1.1. Notwithstanding any other provision of chapter 31-12A, ~~one, two, or three~~ an area with three or fewer landowners may ~~form~~ be formed into a road district pursuant to this chapter. ~~If there are three or less landowners, each~~ Each landowner shall be a trustee at large and no election of trustees is required. After the district is incorporated and the number of landowners within the district is five or more, the district shall conduct an election pursuant to § 31-12A-16. The district shall conduct the election on the ~~next~~ first Tuesday after the anniversary date of the formation of the district.

Section 5. That § 34-11A-28 be amended to read as follows:

34-11A-28. The boundaries of any ambulance district organized under the provisions of this chapter may be changed in the manner prescribed by §§ 34-11A-4 to ~~34-11A-10~~ 34-11A-8, inclusive, ~~but. However, the changes change~~ of boundaries of ~~any such a~~ district ~~may~~ does not impair or affect ~~its~~ the district's organization or ~~its~~ right in or to property; nor ~~may it~~ does the change of boundaries impair, affect, or discharge any contract, obligation, lien, or change for or upon which it ~~might~~ the district may be liable had ~~such~~ the change of boundaries not been made.

Section 6. That § 34A-5-18 be amended to read as follows:

34A-5-18. The board of trustees shall give notice pursuant to § 6-16-4 of the election provided for in § 34A-5-17 ~~pursuant to § 34A-5-8, and the.~~ The question shall be submitted to the voters on a separate ballot and ~~be so stated as to~~ shall enable each voter to vote for or against the proposed question.

Section 7. That § 46A-14-8 be amended to read as follows:

46A-14-8. The initiating petition shall contain the following:

- (1) The name of the proposed district;
- (2) That there is need in the interest of the public health, safety, and welfare for creation of a district to accomplish improvements in the watershed;
- (3) A statement in general terms setting forth the purposes of the contemplated improvements, the territory to be included in the district, and all proposed subdivisions thereof, if any, of the district;
- (4) The number ~~and names~~ of managers, ~~which shall be three or five members, to be appointed as first managers of the proposed district, and who shall act for a period of one year or until the first annual meeting. They.~~ Each manger shall be owners of own land located in the proposed district but none shall and be a registered voter in the proposed district. However, no manager may be a public officer of the state or federal

1 government;

2 (5) A list of landowners and the total acreage of land owned by each within the proposed  
3 district;

4 (6) A map of the proposed district and the ownership of all land in the proposed district,  
5 except the outline only of the jurisdiction of the authorized officials of municipalities  
6 included need be shown; and

7 (7) The location of the official place of business of the proposed district;

8 ~~(8) A request for the organization of the district as proposed and appointment of the first~~  
9 ~~managers.~~

10 Section 8. That § 46A-18-4 be amended to read as follows:

11 46A-18-4. The petition established pursuant to § 46A-18-2 shall contain:

12 (1) The name of the proposed district;

13 (2) The object and purpose of the water project and works proposed to be constructed  
14 or acquired, together with a general description of the nature, location, and method  
15 of operation of the proposed works or program of activities;

16 (3) A legal description of the lands constituting the proposed district and the ~~names~~ name  
17 of any ~~municipalities~~ municipality included partly or wholly within the boundaries of  
18 the proposed district;

19 (4) The location of the principal place of business of the proposed district; and

20 (5) The number of members of the board of directors of the proposed district, which  
21 number may not be ~~less~~ fewer than three nor more than seven, and a statement as to  
22 whether the directors ~~shall~~ are to be elected at large or ~~shall~~ are to be elected by  
23 director divisions; ~~the names and addresses of the members who shall serve as~~  
24 ~~directors until their successors are elected and qualified as provided in this chapter,~~  
25 ~~and, if director divisions are provided for, the respective divisions that the directors~~

1           ~~are to represent. The persons named in the petition as directors. Each director~~ shall  
2           be a qualified voters voter of the district and, if director divisions are provided for,  
3           shall be a qualified voters voter of the respective ~~divisions the directors are~~ division  
4           the director is to represent.

5           Section 9. That § 46A-18-21 be amended to read as follows:

6           46A-18-21. The initial district directors ~~named in the petition for formation, upon~~  
7           ~~establishment of the district by the Board of Water and Natural Resources,~~ shall assume the  
8           duties of ~~their offices~~ office and serve until ~~their~~ successors are duly elected and qualified.

9           Section 10. That § 6-16-7 be amended to read as follows:

10          6-16-7. If there is a conflict regarding who has a right to vote in the election pursuant to  
11          §§ 6-16-4 to 6-16-6, the judges of election shall settle the conflict by referring to the official  
12          records of the ~~register of deeds and~~ county auditor in each county where these official records  
13          are held.

1    **BILL HISTORY**

- 2    1/11/00 First read in House and referred to Local Government. H.J. 13
- 3    1/17/00 Scheduled for Committee hearing on this date.
- 4    1/18/00 Scheduled for Committee hearing on this date.
- 5    1/18/00 Deferred by Chair.
- 6    1/20/00 Scheduled for Committee hearing on this date.
- 7    1/25/00 Scheduled for Committee hearing on this date.
- 8    1/27/00 Scheduled for Committee hearing on this date.
- 9    2/1/00 Scheduled for Committee hearing on this date.
- 10   2/3/00 Scheduled for Committee hearing on this date.
- 11   2/8/00 Scheduled for Committee hearing on this date.
- 12   2/8/00 Local Government Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 501



# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

995D0218

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1056** - 2/9/00

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representatives Kooistra, Cerny, Davis, Fischer-Clemens, Haley, Kazmerzak, Lockner, Lucas, McCoy, McIntyre, Michels, Munson (Donald), Patterson, Volesky, and Wilson and Senators Valandra, Dunn (Rebecca), Moore, and Symens

1 FOR AN ACT ENTITLED, An Act to establish a workforce development initiative within the  
2 Department of Social Services.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 28-7A be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The Department of Social Services shall implement a workforce development initiative  
7 program, whereby family subsistence grants shall be made to persons in full-time postsecondary  
8 educational programs at institutions accredited by the North Central Association of Colleges and  
9 Secondary Schools on the same basis as Temporary Assistance for Needy Families payments.  
10 The purpose of the workforce development initiative is to raise the skill and education level of  
11 South Dakota's workforce by assisting families while a parent receives education or training  
12 necessary to qualify for family-sustaining work. The department shall utilize maintenance of  
13 effort funds to support this program. Any person participating in the workforce development  
14 initiative shall receive credit for work participation based on the number of regularly scheduled

1 credit hours taken per week against the required work hours per week.

2 Section 2. That chapter 28-7A be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 In order for a postsecondary education program to be an approved work activity in a  
5 participant's personal responsibility agreement, the participant shall provide documentation that:

- 6 (1) Identifies specific goals that can only be met with additional education or training;
- 7 (2) There are suitable employment opportunities that require the specific education or  
8 training in the area in which the participant resides or is willing to reside; and
- 9 (3) The participant can meet the requirements for admission into the program.

10 An approved education program under this section shall require the participant to be enrolled  
11 full-time, defined as a minimum of twelve student credit hours per semester, and complete thirty  
12 or more student credit hours per year. No participant may be approved for more than twenty-  
13 four months of postsecondary education or training.

14 Section 3. That chapter 28-7A be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 The Department of Social Services may establish or limit the number of participants in the  
17 workforce development initiative so as to meet requirements under the Temporary Assistance  
18 for Needy Families program related to workforce characteristics and composition.

1    **BILL HISTORY**

2    1/14/00 First read in House and referred to State Affairs. H.J. 45

3    1/21/00 Deferred by Chair.

4    1/21/00 Scheduled for Committee hearing on this date.

5    1/28/00 Scheduled for Committee hearing on this date.

6    2/4/00 Scheduled for Committee hearing on this date.

7    2/7/00 Scheduled for Committee hearing on this date.

8    2/7/00 State Affairs Do Pass Amended, Passed, AYES 7, NAYS 6. H.J. 474

9    2/8/00 State Affairs Hog Housed.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

731D0422

## HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **HB1057** - 2/9/00

Introduced by: Representatives Munson (Donald), Broderick, Clark, Kooistra, Michels, Roe, Smidt, Sutton (Duane), and Volesky and Senators Reedy, Duxbury, Ham, Kleven, Madden, and Moore

1 FOR AN ACT ENTITLED, An Act to create the South Dakota education savings plan.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Terms used in this Act mean:

4 (1) "Account," an account established in accordance with this Act and which meets the  
5 requirements of Section 529 of the Internal Revenue Code, 26 U.S.C.A. § 529, as  
6 amended to January 1, 2000, for qualified state tuition programs;

7 (2) "Board," the Board of Regents;

8 (3) "Contribution," any payment made to an account for the benefit of a designated  
9 beneficiary;

10 (4) "Contributor," any person or organization contributing to and maintaining an account  
11 and having the right to withdraw funds from the account before the account is  
12 disbursed to or for the benefit of the designated beneficiary;

13 (5) "Designated beneficiary," the person who is designated as the beneficiary of the  
14 account at the time the account is established, the person who is designated as the  
15 new beneficiary if the beneficiaries of the account are changed, or the person receiving

1 the benefits from an account established by a state or local government or an  
2 organization as part of a scholarship program operated by such government or  
3 organization;

4 (6) "Distribution," any disbursement from the account;

5 (7) "Eligible institution," any institution of postsecondary education determined by the  
6 executive director to be regularly accredited by a recognized and appropriate  
7 accrediting agency offering postsecondary education, and which has an agreement  
8 with the United States secretary of education to conduct any of the programs  
9 established in Title IV of The Higher Education Act of 1965, as amended to  
10 January 1, 2000;

11 (8) "Executive director," the executive director of the Board of Regents;

12 (9) "Financial institution," any bank, insurance company, or investment company licensed  
13 to do business in South Dakota which may be designated by the board to invest the  
14 funds of the plan;

15 (10) "Nonqualified withdrawal," any withdrawal from an account other than a qualified  
16 withdrawal, any withdrawal made as the result of the death or disability of the  
17 designated beneficiary, or any rollover or change of designated beneficiary;

18 (11) "Plan," the South Dakota education savings plan;

19 (12) "Qualified higher education expenses," expenses such as room, board, tuition, fees,  
20 books, supplies, and equipment as defined in Section 529 of the Internal Revenue  
21 Code, 26 U.S.C.A. § 529, as amended to January 1, 2000, and required for the  
22 enrollment or attendance of a designated beneficiary at an eligible institution; and

23 (13) "Qualified withdrawal," a withdrawal from an account to pay the qualified higher  
24 education expenses of the designated beneficiary in accordance with this Act.

25 Section 2. There is hereby established the South Dakota education savings plan. The plan is

1 a mechanism through which a contributor may deposit funds into an account on behalf of a  
2 designated beneficiary to pay the qualified higher education expenses of the designated  
3 beneficiary incurred while attending an eligible institution. Contributors may establish accounts  
4 through the plan at financial institutions. The Board of Regents, through the executive director,  
5 shall administer the plan or select an administrator in compliance with Section 529 of the Internal  
6 Revenue Code, 26 U.S.C.A. § 529, as amended to January 1, 2000.

7 Section 3. In order to establish and administer the plan, the executive director, on behalf of  
8 the board, may enter into agreements with one or more financial institutions to operate the plan.

9 Section 4. The executive director, on behalf of the board, may enter into participation  
10 agreements with contributors on behalf of designated beneficiaries stipulating the terms and  
11 conditions of the plan in which the contributor makes deposits. The board may promulgate rules,  
12 pursuant to chapter 1-26, to specify contributor and designated beneficiary eligibility  
13 requirements, documentation, maximum and minimum contribution amounts, distribution  
14 procedures, and qualified and nonqualified withdrawal procedures and fees, if any.

15 Section 5. Nothing in this Act may be construed to guarantee that any designated beneficiary  
16 will be admitted to an eligible institution or will be allowed to continue enrollment at or graduate  
17 from an eligible institution, that a designated beneficiary will qualify for resident tuition rates if  
18 attending a state-supported university, or that amounts saved pursuant to the plan will be  
19 sufficient to cover the qualified education expenses of the designated beneficiary.

1    **BILL HISTORY**

2    1/14/00 First read in House and referred to State Affairs. H.J. 45

3    1/19/00 Scheduled for Committee hearing on this date.

4    1/19/00 Deferred by Chair.

5    1/21/00 Scheduled for Committee hearing on this date.

6    1/24/00 Scheduled for Committee hearing on this date.

7    1/26/00 Scheduled for Committee hearing on this date.

8    1/28/00 Scheduled for Committee hearing on this date.

9    1/31/00 Scheduled for Committee hearing on this date.

10   2/2/00 Scheduled for Committee hearing on this date.

11   2/7/00 Scheduled for Committee hearing on this date.

12   2/7/00 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 5. H.J. 476

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

605D0423

## HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **HB1070** - 2/9/00

Introduced by: Representatives Richter, Brown (Jarvis), Brown (Richard), Clark, Davis, Derby, Haley, Klaudt, Koetzle, Kooistra, Putnam, Smidt, Wudel, and Young and Senators Everist, Brosz, Brown (Arnold), Duxbury, Halverson, Ham, Hutmacher, Olson, and Paisley

1 FOR AN ACT ENTITLED, An Act to extend residency status to certain students for purposes  
2 of higher education tuition.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-53 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The Board of Regents shall classify a person as a resident for purposes of undergraduate  
7 tuition if the person achieved a score on the enhanced ACT assessment by American College  
8 Testing, Incorporated, of twenty-seven (27) or higher, or one thousand one hundred eighty  
9 (1,180), or higher, on the scholastic aptitude test (SAT-I) by Educational Testing Service. This  
10 section does not apply to any person enrolled at an institution of higher education under the  
11 control of the board on July 1, 2000.



1    **BILL HISTORY**

2    1/15/00 First read in House and referred to State Affairs. H.J. 53

3    1/24/00 Scheduled for Committee hearing on this date.

4    1/24/00 State Affairs Deferred to another day.

5    1/26/00 Scheduled for Committee hearing on this date.

6    1/28/00 Scheduled for Committee hearing on this date.

7    1/31/00 Scheduled for Committee hearing on this date.

8    2/2/00 Scheduled for Committee hearing on this date.

9    2/7/00 Scheduled for Committee hearing on this date.

10   2/7/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 4. H.J. 476

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

555D0501

## HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **HB1073** - 2/9/00

Introduced by: Representatives Young, Apa, and Chicoine and Senators Dunn (Jim) and Olson

1 FOR AN ACT ENTITLED, An Act to permit assessments based on benefits.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 9-45-32 be amended to read as follows:

4 9-45-32. In lieu of the method of apportionment prescribed in §§ 9-45-30 and 9-45-31, it  
5 may be provided in and by the resolution determining the necessity of any street improvement  
6 that the cost ~~thereof~~ shall be assessed against ~~all assessable lots and tracts~~ each lot and tract of  
7 ~~land fronting or abutting thereon or lying within one-half block or three hundred feet thereof,~~  
8 ~~whichever is less,~~ according to the benefits determined by the governing body to accrue to each  
9 ~~of such lots and tracts~~ lot and tract from the construction of the improvement. ~~In such event the~~  
10 The governing body, in preparing, considering, and hearing objections to the assessment roll as  
11 provided in chapter 9-43, shall make such an investigation as may be necessary and shall find and  
12 determine the amount in which each such lot and tract will be especially is specifically benefited  
13 by the construction of the improvement, and shall assess against each such lot and tract such the  
14 amount, not exceeding said the benefit as shall be necessary to pay its just portion of the total  
15 cost of the work to be assessed. No payment may be made by the state on any assessment against  
16 state property except in accordance with § 5-14-19.

1    **BILL HISTORY**

2    1/15/00 First read in House and referred to State Affairs. H.J. 54

3    2/9/00 Scheduled for Committee hearing on this date.

4    2/9/00 State Affairs Do Pass Amended, Passed, AYES 13, NAYS 0.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

271D0270

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1078** - 2/2/00

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representatives Brown (Richard), Brooks, Haley, Koetzle, Lucas, and McCoy  
and Senators Brosz, Brown (Arnold), and Olson

1 FOR AN ACT ENTITLED, An Act to revise the index factor in the state aid to education  
2 formula, to reduce state aid to education to certain school districts with excess general fund  
3 cash balances, and to create an education improvement fund.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 13-13-10.1 be amended to read as follows:

6 13-13-10.1. Terms used in this chapter mean:

7 (1) "General enrollment average daily membership," the average number of resident and  
8 nonresident kindergarten through twelfth grade pupils enrolled in all schools operated  
9 by the school district during the previous regular school year, minus average number  
10 of pupils for whom the district receives tuition, except pupils described in subdivision  
11 (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42 and plus the  
12 average number of pupils for whom the district pays tuition, except pupils for whom  
13 the district pays tuition pursuant to § 13-28-42;

14 (1A) Nonresident students who are in the care and custody of the Department of Social  
15 Services, the Unified Judicial System, the Department of Corrections, or other state

1 agencies and are attending a public school may be included in the average daily  
2 membership of the receiving district when enrolled in the receiving district. When  
3 counting a student who meets these criteria in its general enrollment average daily  
4 membership, the receiving district may begin the enrollment on the first day of  
5 attendance. The district of residence prior to the custodial transfer may not include  
6 students who meet these criteria in its general enrollment average daily membership  
7 after the student ceases to attend school in the resident district;

8 (2) "Adjusted average daily membership," calculated as follows:

9 (a) For districts with a general enrollment average daily membership of two  
10 hundred or less, multiply 1.2 times the general enrollment average daily  
11 membership;

12 (b) For districts with a general enrollment average daily membership of less than  
13 six hundred, but greater than two hundred, raise the general enrollment average  
14 daily membership to the 0.8293 power and multiply the result times 2.98;

15 (c) For districts with a general enrollment average daily membership of six hundred  
16 or more, multiply 1.0 times their general enrollment average daily membership;

17 (3) "Index factor," is the annual percentage change in the consumer price index for urban  
18 wage earners and clerical workers as computed by the Bureau of Labor Statistics of  
19 the United States Department of Labor for the year before the year immediately  
20 preceding the year of adjustment ~~or three percent, whichever is less~~ plus the  
21 enrollment adjustment. However, the index factor may not be less than three percent;

22 (3A) "Enrollment adjustment," is the negative of the annual percent change in the statewide  
23 general enrollment average daily membership for the year before the year immediately  
24 preceding the year of adjustment. However, the enrollment adjustment may not be less  
25 than zero;

1       (4)    "Per student allocation," for the period January 1, 1997, to June 30, 1997, inclusive,  
2            is \$1,675. For school fiscal year 1998, beginning on July 1, 1997, the per student  
3            allocation shall be \$3,350 increased by the index factor. Each school fiscal year  
4            thereafter, the per student allocation shall be the previous fiscal year's per student  
5            allocation increased by the index factor;

6       (5)    "Local need," the per student allocation multiplied by the adjusted average daily  
7            membership;

8       (6)    "Local effort," the amount of ad valorem taxes generated in a school fiscal year by  
9            applying the levies established pursuant to § 10-12-42.

10       Section 2. Any school district that receives revenue resulting from the enrollment adjustment  
11       shall use the resulting revenue to increase teachers' salaries. The Department of Education and  
12       Cultural Affairs shall certify to each school district the amount of revenue it will receive from  
13       general state aid to education resulting from the enrollment adjustment.

14       Section 3. School districts shall certify to the Department of Education and Cultural Affairs  
15       that the revenue received resulting from the enrollment adjustment is used to increase teachers'  
16       salaries.

17       Section 4. That § 13-37-35.1 be amended to read as follows:

18       13-37-35.1. Terms used in chapter 13-37 mean:

19       (1)    "Level one disability," a mild disability;

20       (2)    "Level two disability," a mental retardation or emotional disorder;

21       (3)    "Level three disability," hearing impairment, deafness, visual impairment,  
22            deaf-blindness, orthopedic impairment, or traumatic brain injury;

23       (4)    "Level four disability," autism;

24       (5)    "Level five disability," multiple disabilities;

25       (6)    "Index factor," is the annual percentage change in the consumer price index for urban

wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment ~~or three percent, whichever is less. However, the index factor may not be less than three percent or greater than five percent;~~

(7) "Local effort," is the amount of taxes payable each year, using a levy for the special education fund of a school district of one dollar and thirty-five cents per thousand dollars of taxable valuation;

(8) "Allocation for a student with a level one disability," for the school fiscal year beginning July 1, 1999, is \$3,504. For each school year thereafter, the allocation for a student with a level one disability shall be the previous fiscal year's allocation for such child increased by ~~the lesser of the index factor or three percent;~~

(9) "Allocation for a student with a level two disability," for the school fiscal year beginning July 1, 1999, is \$7,914. For each school year thereafter, the allocation for a student with a level two disability shall be the previous fiscal year's allocation for such child increased by ~~the lesser of the index factor or three percent;~~

(10) "Allocation for a student with a level three disability," for the school fiscal year beginning July 1, 1999, is \$10,116. For each school year thereafter, the allocation for a student with a level three disability shall be the previous fiscal year's allocation for such child increased by ~~the lesser of the index factor or three percent;~~

(11) "Allocation for a student with a level four disability," for the school fiscal year beginning July 1, 1999, is \$14,705. For each school year thereafter, the allocation for a student with a level four disability shall be the previous fiscal year's allocation for such child increased by ~~the lesser of the index factor or three percent;~~

(12) "Allocation for a student with a level five disability," for the school fiscal year beginning July 1, 1999, is \$15,808. For each school year thereafter, the allocation for

a student with a level five disability shall be the previous fiscal year's allocation for such child increased by ~~the lesser of the index factor or three percent~~;

(13) "Child count," is the number of students in need of special education or special education and related services according to criteria set forth in rules promulgated pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education and Cultural Affairs in accordance with rules promulgated pursuant to § 13-37-1.1;

(14) "Resident average daily membership," the average number of resident kindergarten through twelfth grade pupils enrolled in all schools operated by the school district during the previous regular school year plus the average number of pupils for whom the district pays tuition and plus the average number of resident pupils enrolled in another school district under the provisions of § 13-28-40;

(15) "Nonpublic school," a sectarian organization or entity which is accredited by the secretary of education and cultural affairs for the purpose of instructing children of compulsory school age. This definition excludes any school that receives a majority of its revenues from public funds;

(16) "Nonpublic average daily membership," the average number of kindergarten through twelfth grade pupils enrolled during the previous regular school year in all nonpublic schools located within the boundaries of the public school district plus the average number of children under age sixteen who are approved for alternative instruction pursuant to § 13-27-2 during the previous school year;

(17) "Special education average daily membership," resident average daily membership plus nonpublic average daily membership;

(18) "Local need," an amount to be determined as follows:

(a) Multiply the special education average daily membership by 0.089 and multiply the result by the allocation for a student with a level one disability;



1           (b)    Multiply the number of students having a level two disability as reported on the  
2                    child count for the previous school fiscal year by the allocation for a student  
3                    with a level two disability;

4           (c)    Multiply the number of students having a level three disability as reported on  
5                    the child count for the previous school fiscal year by the allocation for a  
6                    student with a level three disability;

7           (d)    Multiply the number of students having a level four disability as reported on the  
8                    child count for the previous school fiscal year by the allocation for a student  
9                    with a level four disability;

10          (e)    Multiply the number of students having a level five disability as reported on the  
11                   child count for the previous school fiscal year by the allocation for a student  
12                   with a level five disability;

13          (f)    Sum the results of (a) through (e);

14          (19)   "Effort factor," the school district's special education tax levy in dollars per thousand  
15                   divided by \$1.35. The maximum effort factor is 1.0.

16          Section 5. Any teacher who teaches in a public school in South Dakota and who has obtained  
17          certification by the National Board for Professional Teaching Standards shall receive a payment  
18          of one thousand dollars from the Department of Education and Cultural Affairs as partial  
19          reimbursement for costs incurred in completing the certification process. If the teacher does not  
20          remain a teacher in a South Dakota public school for at least three years following such  
21          certification, the teacher shall refund the payment.

22          Section 6. In addition to the reimbursement provided pursuant to section 5 of this Act, any  
23          teacher who teaches in a public school in South Dakota and who has obtained certification by  
24          the National Board for Professional Teaching Standards shall receive a payment of two thousand  
25          dollars per year from the Department of Education and Cultural Affairs for the duration of the

1 certification, not to exceed ten years. A teacher is eligible for payment under this section only  
2 if the teacher teaches in a public school in South Dakota.

3 Section 7. Any teacher who teaches in a public school in South Dakota and who has obtained  
4 certification by the National Board for Professional Teaching Standards is exempt from any state  
5 certification renewal requirements and any other requirements for additional academic training  
6 for the duration of the national certification.

7 Section 8. Sections 5, 6, and 7 of this Act are effective on July 1, 2001.

8 Section 9. The Department of Education and Cultural Affairs may promulgate rules pursuant  
9 to chapter 1-26 to define general fund balances for the purposes for which the term is used in this  
10 Act and criteria for the Excess General Fund Oversight Board to grant waivers and to verify the  
11 certification by a school district that revenue resulting from the enrollment adjustment is used  
12 to increase teachers' salaries.

1    **BILL HISTORY**

2    1/15/00 First read in House and referred to Education. H.J. 55

3    2/1/00 Education Hog Housed.

4    2/1/00 Scheduled for Committee hearing on this date.

5    2/1/00 Education Do Pass Amended, Passed, AYES 10, NAYS 3. H.J. 324

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

208D0200

HOUSE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB1079** - 2/9/00

Introduced by: Representatives Brown (Richard), Brooks, Davis, Fischer-Clemens, Koetzle, Lucas, McCoy, Waltman, and Wilson and Senators Brown (Arnold), Albers, Hainje, Hutmacher, Moore, Munson (David), and Olson

1 FOR AN ACT ENTITLED, An Act to appropriate money for grants to school districts to  
2 implement programs designed to improve student achievement.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby appropriated from the general fund the sum of five hundred  
5 thousand dollars (\$500,000), or so much thereof as may be necessary, to the Department of  
6 Education and Cultural Affairs to provide grants to school districts for educational planning and  
7 implementation of activities designed to raise student achievement in the areas of oral  
8 communication, written communication, mathematics, science, reading, and reasoning skills.

9 Section 2. No grant provided for in this Act may be less than ten thousand dollars nor more  
10 than forty thousand dollars.

11 Section 3. Grant applications shall identify specific benchmarks of achievement that may be  
12 measured by nationally recognized tests.

13 Section 4. Grant applications shall provide that teachers and parents be involved in the  
14 planning phase of the activities designed to raise student achievement.

15 Section 5. The Department of the Education and Cultural Affairs shall promulgate rules

1 pursuant to chapter 1-26 to provide for the application for grants, review of grant applications,  
2 and measurement of achievement as provided in this Act.

3 Section 6. The secretary of the Department of Education and Cultural Affairs shall approve  
4 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

5 Section 7. Any amounts appropriated in this Act not lawfully expended or obligated by  
6 June 30, 2001, shall revert in accordance with § 4-8-21.

1    **BILL HISTORY**

2    1/15/00 First read in House and referred to Appropriations. H.J. 55

3    2/3/00 Scheduled for Committee hearing on this date.

4    2/3/00 Appropriations Deferred to another day.

5    2/9/00 Scheduled for Committee hearing on this date.

6    2/9/00 Appropriations Do Pass Amended, Passed, AYES 10, NAYS 0.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

674D0125

## HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **HB1094** - 2/9/00

Introduced by: Representatives Wudel, Apa, Broderick, Brooks, Brown (Jarvis), Clark, Crisp, Diedrich (Larry), Diedrich (Elmer), Duenwald, Duniphan, Earley, Engbrecht, Fitzgerald, Fryslie, Garnos, Hennies, Jaspers, Juhnke, Klaudt, Koehn, Konold, Kooistra, Koskan, Lintz, McCoy, McNenny, Michels, Monroe, Munson (Donald), Napoli, Pummel, Putnam, Richter, Slaughter, Smidt, Solum, Sutton (Duane), Wetz, and Young and Senators Benson, Albers, Bogue, Brosz, Dennert, Drake, Frederick, Hainje, Lange, Symens, and Valandra

1 FOR AN ACT ENTITLED, An Act to create the people's trust fund in the state treasury and to  
2 declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The people's trust fund is established in the state treasury. Any money received  
5 from the Master Settlement Agreement signed on November 23, 1998, by attorneys general from  
6 several states and various tobacco companies shall be deposited in the people's trust fund. The  
7 principal in the trust fund may not be expended. The fund shall be invested according to §§ 4-5-  
8 23 and 4-5-26. Interest earned on money in the fund shall be deposited in the people's interest  
9 fund created in section 2 of this Act.

10 Section 2. The people's interest fund is established in the state treasury. Interest earned on  
11 money in the fund shall be credited to the people's interest fund. The money in the people's  
12 interest fund shall remain in the fund until appropriated by the Legislature. The fund shall be  
13 invested according to §§ 4-5-23 and 4-5-26.

1       Section 3. Whereas, this Act is necessary for the support of the state government and its  
2       existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full  
3       force and effect from and after its passage and approval.



1    **BILL HISTORY**

2    1/15/00 First read in House and referred to State Affairs. H.J. 58

3    2/7/00 Scheduled for Committee hearing on this date.

4    2/7/00 State Affairs Deferred to another day, AYES 10, NAYS 3.

5    2/8/00 Scheduled for Committee hearing on this date.

6    2/8/00 State Affairs Do Pass Amended, Passed, AYES 11, NAYS 2.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

535D0647

## HOUSE STATE AFFAIRS COMMITTEE

### ENGROSSED NO. **HB1176** - 2/9/00

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representatives Hunt and Fiegen and Senator Moore

1 FOR AN ACT ENTITLED, An Act to authorize the Department of Health to promulgate rules  
2 regarding the privacy of medical records.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Department of Health shall promulgate rules pursuant to chapter 1-26, to  
5 protect the privacy of personally identifiable health care and medical information, data, and  
6 records, including genetic privacy. The rules may include the following:

7 (1) Definition of terms;

8 (2) Standards for the protection of the privacy and confidentiality of personally  
9 identifiable health care information and medical records of humans;

10 (3) Rules for the collection, use, storage, security, distribution, disclosure, release, and  
11 disposal of health care and medical information, data, and records in all forms,  
12 including printed material, plastic media, audio, video, computerized and electronic  
13 transmissions;

14 (4) Rules regarding the sale and exchange of health care and medical information, data,  
15 and records;

16 (5) Rules to define the responsibilities and limitations of those needing or requiring access

- 1 to health care and medical information, data, and records;
- 2 (6) Procedures and documents required for the release or transfer of health care and
- 3 medical information, data and records, including the identity of who may release such
- 4 information and records and under what conditions and provisions of the law, as
- 5 needed to protect the privacy of personally identifiable health care and medical
- 6 information, data, and records;
- 7 (7) Rules for the collection, use, storage, disclosure, security, distribution, release, and
- 8 disposal of health care information and medical records collected, obtained, used or
- 9 held by any legal entity subject to the jurisdiction of the Department of Health.

1    **BILL HISTORY**

2    1/19/00 First read in House and referred to committee assignment waived. H.J. 137

3    1/20/00 Referred to State Affairs.

4    1/24/00 Scheduled for Committee hearing on this date.

5    1/24/00 Deferred by Chair.

6    1/31/00 Scheduled for Committee hearing on this date.

7    2/2/00 Scheduled for Committee hearing on this date.

8    2/7/00 Scheduled for Committee hearing on this date.

9    2/7/00 State Affairs Do Pass Amended, Passed, AYES 11, NAYS 2. H.J. 476

10   2/8/00 State Affairs Hog Housed.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

456D0556

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1191** - 2/9/00

Introduced by: Representatives Earley, Heineman, and Peterson and Senator Hainje

1 FOR AN ACT ENTITLED, An Act to revise the number of temporary on-sale licenses that may  
2 be issued by municipalities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 35-4-14.2 be amended to read as follows:

5 35-4-14.2. ~~There may be issued in any~~ Any municipality ~~one~~ may issue an on-sale license to  
6 be operated at a convention hall established pursuant to chapter 9-52 or 9-53. Such license shall  
7 be issued without regard to the population limitations established pursuant to § 35-4-11. In  
8 addition, any municipality with a population exceeding one hundred thousand may issue an on-  
9 sale license to be operated at a sporting event held at a publicly owned sports arena or facility  
10 that seats a minimum of one thousand persons. Any license issued pursuant to this section shall  
11 be issued for a period not to exceed five consecutive days and ~~such~~ the license shall expire at  
12 twelve o'clock midnight on the fifth day after issuance. No license may be issued, pursuant to the  
13 provisions of this section, in a municipality which operates a license pursuant to § 35-4-14.1. No  
14 public hearing is required for the issuance of a license pursuant to this section if the individual  
15 applying for ~~such~~ the license holds an on-sale alcoholic beverage license in ~~such~~ the municipality  
16 or holds an operating agreement for a municipal on-sale alcoholic beverage license. No person

- 1 who holds an operating agreement for a municipal license pursuant to § 35-4-14.1 may receive
- 2 a license pursuant to this section.

1    **BILL HISTORY**

2    1/19/00 First read in House and referred to committee assignment waived. H.J. 140

3    1/20/00 Referred to Local Government.

4    2/3/00 Scheduled for Committee hearing on this date.

5    2/3/00 Deferred to 36th legislative day, AYES 8, NAYS 4. H.J. 406

6    2/8/00 Local Government Reconsidered, AYES 11, NAYS 0.

7    2/8/00 Local Government Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 503

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

448D0704

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1197** - 2/9/00

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representative Wilson

1 FOR AN ACT ENTITLED, An Act to exempt mentally retarded persons from the death penalty  
2 and to provide for a determination of mental retardation in such cases.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read  
5 as follows:

6 Notwithstanding any other provision of law, the death penalty may not be imposed upon any  
7 person who was mentally retarded at the time of the commission of the offense and whose mental  
8 retardation was manifested and documented before the age of eighteen years.

9 Section 2. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read  
10 as follows:

11 As used in this Act, mental retardation means significant subaverage general intellectual  
12 functioning existing concurrently with substantial related deficits in applicable adaptive skill  
13 areas. An intelligence quotient exceeding seventy on a reliable standardized measure of  
14 intelligence is presumptive evidence that the defendant does not have significant subaverage  
15 general intellectual functioning.

16 Section 3. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read



1 as follows:

2 Not later than ninety days prior to the commencement of trial, the defendant may upon a  
3 motion alleging reasonable cause to believe the defendant was mentally retarded at the time of  
4 the commission of the offense, apply for an order directing that a mental retardation hearing be  
5 conducted prior to trial. If, upon review of the defendant's motion and any response thereto, the  
6 court finds reasonable cause to believe the defendant was mentally retarded, it shall promptly  
7 conduct a hearing without a jury to determine whether the defendant was mentally retarded. If  
8 the court finds after the hearing that the defendant was not mentally retarded at the time of the  
9 commission of the offense, the court shall, prior to commencement of trial, enter an order so  
10 stating, but nothing in this paragraph precludes the defendant from presenting mitigating  
11 evidence of mental retardation at the sentencing phase of the trial. If the court finds after the  
12 hearing that the defendant established mental retardation by a preponderance of the evidence,  
13 the court shall prior to commencement of trial, enter an order so stating. Unless the order is  
14 reversed on appeal, a separate sentencing proceeding under this section may not be conducted  
15 if the defendant is thereafter convicted of murder in the first degree. If a separate sentencing  
16 proceeding is not conducted, the court, upon conviction of a defendant for the crime of murder  
17 in the first degree, shall sentence the defendant to life imprisonment without parole.

18 Section 4. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read  
19 as follows:

20 If the court enters an order pursuant to section 3 of this Act finding that the defendant was  
21 mentally retarded at the time of the commission of the offense, the state may appeal as of right  
22 from the order. Upon entering such an order, the court shall afford the state a reasonable period  
23 of time, which may not be less than ten days, to determine whether to take an appeal from the  
24 order finding that the defendant was mentally retarded. The taking of an appeal by the state stays  
25 the effectiveness of the court's order and any order fixing a date for trial.

1       Section 5. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read  
2 as follows:

3       If a defendant serves notice pursuant to section 3 of this Act, the state may make application,  
4 upon notice to the defendant, for an order directing that the defendant submit to an examination  
5 by a psychiatrist, licensed psychologist, or licensed psychiatric social worker designated by the  
6 state's attorney, for the purpose of rebutting evidence offered by the defendant. Counsel for the  
7 state and the defendant have the right to be present at the examination. A videotaped recording  
8 of the examination shall be made available to the defendant and the state's attorney promptly  
9 after its conclusion. The state's attorney shall promptly serve on the defendant a written copy of  
10 the findings and evaluation of the examiner. If a defendant is subjected to an examination  
11 pursuant to an order issued in accordance with this section, any statement made by the defendant  
12 for the purpose of the examination is inadmissible in evidence against the defendant in any  
13 criminal action or proceeding on every issue other than that of whether the defendant was  
14 mentally retarded at the time of the commission of the offense, but such statement is admissible  
15 upon such an issue whether or not it would otherwise be deemed a privileged communication.

16       Section 6. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read  
17 as follows:

18       The provisions of this Act apply only to offenses alleged to have been committed by the  
19 defendant after the effective date of this Act.

20       Section 7. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read  
21 as follows:

22       The provisions of this Act are essentially and inseparably connected and interdependent.

1    **BILL HISTORY**

2    1/19/00 First read in House and referred to committee assignment waived. H.J. 141

3    1/20/00 Referred to State Affairs.

4    1/31/00 Deferred to 36th legislative day, AYES 9, NAYS 4. H.J. 324

5    1/31/00 Scheduled for Committee hearing on this date.

6    2/8/00 State Affairs Reconsidered, AYES 11, NAYS 2.

7    2/8/00 State Affairs Do Pass Amended, Passed, AYES 12, NAYS 1.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

636D0591

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1205** - 2/9/00

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representatives Cutler, Apa, Brown (Richard), Duenwald, Haley, Hanson, Jaspers, Konold, McNenny, Peterson, Smidt, Sutton (Duane), and Waltman and Senators Olson, Albers, Brown (Arnold), Drake, Everist, Flowers, Shoener, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain requirements for moving mobile homes or  
2 manufactured homes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any transport of a used mobile home or manufactured home by a transporter shall be  
7 accompanied with a notification form, as prescribed by the secretary of revenue, stating the point  
8 of origin and the point of destination. The transporter shall provide a copy of the notification  
9 form to the director of equalization in the county of origin and the county of destination. This  
10 section does not apply to any transport regulated under chapter 32-7A. A violation of this  
11 section is a Class 2 misdemeanor.

12 Section 2. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 Any transport of a used mobile home or manufactured home by a transporter shall be

1 accompanied with an affidavit from the county treasurer of the county in which the used mobile  
2 home or manufactured home is registered, stating that the current year's taxes are paid as  
3 described in §§ 10-6-70 to 10-6-73, inclusive, or § 10-9-3. This section does not apply to any  
4 transport regulated under chapter 32-7A. A violation of this section is a Class 2 misdemeanor.

5 Section 3. That § 32-5-16.3 be amended to read as follows:

6 32-5-16.3. Any person who moves a mobile home or manufactured home shall obtain a  
7 permit, as prescribed by the secretary of revenue, from the county treasurer where the home is  
8 located. The permit fee is valid for a single trip from the point of origin to a point of destination  
9 within the state. Before the county treasurer may issue a permit, the owner of the mobile home  
10 or manufactured home or regulated lender as defined in § 54-3-14 that is repossessing the mobile  
11 home or manufactured home shall obtain an affidavit, as prescribed by the secretary of revenue,  
12 from the county treasurer stating that the current year's taxes are paid as described in §§ 10-6-70  
13 to 10-6-72, inclusive, and § 10-6-73 or 10-9-3. The permit fee for mobile homes and  
14 manufactured homes for use on the public highways is fifteen dollars. The fees collected shall be  
15 credited to the license plate special revenue fund. The fee and permit imposed by this section  
16 does not apply to a new or used mobile home or manufactured home transported by a dealer  
17 licensed under chapter 32-7A. A violation of this section is a Class 2 misdemeanor.

18 Section 4. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
19 follows:

20 If the owner of the used mobile home or manufactured home fails to obtain an affidavit from  
21 the county treasurer of the county in which the used mobile home or manufactured home is  
22 registered, stating that the current year's taxes are paid as described in §§ 10-6-70 to 10-6-73,  
23 inclusive, or § 10-9-3, the court shall assess a civil penalty of two hundred fifty dollars to the  
24 owner. If a regulated lender, as defined in § 54-3-14, is repossessing a used mobile home or  
25 manufactured home and fails to obtain an affidavit from the county treasurer of the county in

1    which the used mobile home or manufactured home is registered, stating that the current year's  
2    taxes are paid as described in §§ 10-6-70 to 10-6-73, inclusive, or § 10-9-3, the court shall assess  
3    a civil penalty of two hundred fifty dollars to the lender. All civil penalties collected pursuant to  
4    this section shall be deposited in the county general fund of the county in which the used mobile  
5    home or manufactured home is registered.

1    **BILL HISTORY**

2    1/19/00 First read in House and referred to committee assignment waived. H.J. 142

3    1/20/00 Referred to Local Government.

4    1/25/00 House of Representatives Referred to Taxation. H.J. 222

5    2/3/00 Scheduled for Committee hearing on this date.

6    2/3/00 Deferred to 36th legislative day, AYES 9, NAYS 3. H.J. 403

7    2/8/00 Taxation Reconsidered, AYES 9, NAYS 0.

8    2/8/00 Taxation Do Pass Amended, Passed, AYES 10, NAYS 0. H.J. 499

9    2/8/00 Taxation Hog Housed.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

249D0619

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1213** - 2/9/00

Introduced by: Representatives McNenny, Brown (Jarvis), Chicoine, Koskan, and Waltman and  
Senators Symens, Brown (Arnold), Flowers, Vitter, and Whiting

1 FOR AN ACT ENTITLED, An Act to provide for an appeal of valuation decisions of the  
2 secretary of revenue and for the recovery of certain expenses.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any person, firm, corporation, public or private, taxing district, or state department  
7 interested, may appeal from the decision of the secretary of revenue in calculating a factor for  
8 agricultural and nonagricultural valuations pursuant to § 10-13-37.1. The appeal may be made  
9 to the office of hearing examiners or the circuit court in the manner prescribed in chapter 10-11  
10 for taking appeals from decisions of the county board of equalization.

11 Section 2. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 Any appeal made pursuant to section 1 of this Act does not prevent the application of the  
14 factor calculated by the secretary of revenue pursuant to § 10-13-37.1 pending exhaustion of all  
15 appeal rights of the parties to the appeal. If the factor calculated by the secretary of revenue is  
16 revised on appeal, appropriate relief shall be provided for that class of property affected in the



1 next budget cycle following the final decision of such appeal.

2 Section 3. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 The circuit court may award disbursements, including reasonable attorneys' fees, in an action  
5 brought pursuant to section 1 of this Act by any appellant if the appellant does not prevail in its  
6 appeal of any factor calculated in § 10-13-37.1.

7 Section 4. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 On motion, the supreme court may award reasonable attorneys' fees in an action brought to  
10 the supreme court pursuant to this Act against any appellant relative to a factor calculated in  
11 § 10-13-37.1, if the appellant does not prevail in its appeal. The motion shall be accompanied by  
12 counsel's verified itemized statement of costs incurred and legal services rendered.

1    **BILL HISTORY**

2    1/19/00 First read in House and referred to committee assignment waived. H.J. 144

3    1/20/00 Referred to Judiciary.

4    1/26/00 House of Representatives Referred to Taxation. H.J. 246

5    2/3/00 Scheduled for Committee hearing on this date.

6    2/8/00 Scheduled for Committee hearing on this date.

7    2/8/00 Taxation Do Pass Amended, Passed, AYES 10, NAYS 0. H.J. 501

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

228D0712

## HOUSE TRANSPORTATION COMMITTEE

### ENGROSSED NO. **HB1226** - 2/8/00

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representatives Wetz, Diedrich (Larry), Duenwald, McNenny, Monroe, Napoli, and Sebert and Senators Duxbury, Drake, Flowers, Frederick, Madden, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the surrender of  
2 license plates and suspension of the driver's license or commercial driver's license for certain  
3 overweight vehicle offenses.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 32-22 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Upon the fourth or subsequent conviction of any individual driver, within a four-year period,  
8 for operating a motor vehicle in violation of the provisions of §§ 32-22-2 to 32-22-33, inclusive,  
9 the court in which the conviction is obtained shall revoke or suspend the driver's license or  
10 commercial driver's license, if applicable, for a period not to exceed one year.

11 Section 2. That chapter 32-22 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 If a motor vehicle as defined in subdivision 32-3-1(19) or (24) was involved in four or more  
14 overweight convictions pursuant to the provisions §§ 32-22-2 to 32-22-33, inclusive, within a  
15 four-year period, and such convictions were each in excess of four thousand pounds, the court

1     may cancel and require the surrender of the license plates of the vehicle involved. The canceled  
2     plates shall be transmitted to the Department of Revenue, together with a copy of judgment, and  
3     the license plates may not be issued for the vehicle before the expiration of one year from the  
4     date of the judgment unless the vehicle is transferred to a new owner.

5         Section 3. That § 32-22-54 be repealed.

6     ~~—32-22-54. Upon a fourth or subsequent conviction of any person for operating a motor~~  
7     ~~vehicle in violation of the provisions of §§ 32-22-2 to 32-22-33, inclusive, the court in which~~  
8     ~~such conviction is obtained may, as a part of the judgment, cancel and require the surrender of~~  
9     ~~the license plates of the vehicle involved, which plates shall be transmitted to the Department of~~  
10    ~~Commerce and Regulation, together with a copy of the judgment; and license plates may not be~~  
11    ~~issued for such vehicle before the expiration of one year from the date of the judgment.~~

1    **BILL HISTORY**

2    1/21/00 First read in House and referred to Transportation. H.J. 175

3    2/2/00 Scheduled for Committee hearing on this date.

4    2/2/00 Transportation Deferred to another day.

5    2/7/00 Transportation Hog Housed.

6    2/7/00 Scheduled for Committee hearing on this date.

7    2/7/00 Transportation Do Pass Amended, Passed, AYES 5, NAYS 8. H.J. 448

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

874D0716

## HOUSE LOCAL GOVERNMENT COMMITTEE

### ENGROSSED NO. **HB1235** - 2/9/00

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representatives Young, Juhnke, McCoy, Monroe, Sebert, and Slaughter and  
Senators Whiting, Benson, and Frederick

1 FOR AN ACT ENTITLED, An Act to restrict the use of public property for political purposes.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 12-25 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 No public employer may allow the use of public property, equipment, facilities, or resources  
6 for express advocacy by a ballot question committee, candidate, candidate's committee, political  
7 action committee, or political party committee or any committee. A public employer is the state,  
8 any local government, government agency, government instrumentality, special district, joint  
9 powers authority, school board, or special purpose organization that employs one or more  
10 persons.

1    **BILL HISTORY**

2    1/21/00 First read in House and referred to Local Government. H.J. 177

3    2/8/00 Local Government Hog Housed.

4    2/8/00 Scheduled for Committee hearing on this date.

5    2/8/00 Local Government Do Pass Amended, Passed, AYES 7, NAYS 4. H.J. 504

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

439D0259

## HOUSE LOCAL GOVERNMENT COMMITTEE

### ENGROSSED NO. **HB1247** - 2/9/00

Introduced by: Representatives Burg, Crisp, Hagen, Lockner, and Nachtigal and Senators  
Duxbury, Dennert, Hainje, and Kleven

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to ambulance  
2 districts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-11A-5 be amended to read as follows:

5 34-11A-5. If the proposed district is situated within two or more counties, the county auditor  
6 of the county ~~wherein~~ containing the largest area ~~is contained~~, shall confer with the auditor ~~or~~  
7 ~~auditors of the~~ any other counties county concerned, and shall obtain a certificate as to the  
8 adequacy of the petitions or resolution pertaining to ~~the~~ such county ~~or counties, and thereafter~~  
9 ~~he~~. Thereafter the auditor of the county containing the largest area shall designate a time and  
10 place for hearing before a joint meeting of the boards of county commissioners of all counties  
11 in which the proposed district is to be situated and shall give notice thereof by publication in a  
12 manner provided in § 34-11A-6.

13 Section 2. That § 34-11A-12 be amended to read as follows:

14 34-11A-12. Permanent organization shall be effected by the election of a board of directors  
15 consisting of not less than five residents of the district. No employee of the ambulance district  
16 may serve as a director.



1 Section 3. That § 34-11A-19 be amended to read as follows:

2 34-11A-19. The estimate provided by § 34-11A-18 shall be certified by the president and  
3 secretary to ~~the proper~~ any affected county auditor ~~or county auditors~~, on or before June thirtieth  
4 of each year, who shall levy a tax ~~not to exceed one dollar per thousand dollars of~~ upon the  
5 taxable valuation of the property within the district for the maintenance of the ambulance district  
6 for the fiscal year as provided by law.

7 Section 4. That § 34-11A-28 be amended to read as follows:

8 34-11A-28. The boundaries of any ambulance district organized under the provisions of this  
9 chapter may be changed in the manner prescribed by ~~§§ 34-11A-4 to 34-11A-10, inclusive~~ for  
10 establishment of a district, or the board of directors of an ambulance district may submit a  
11 proposed decrease in the size of the district to voters at an annual or special meeting, but the  
12 changes of boundaries of any such district may not impair or affect its organization or its right  
13 in or to property; nor may it impair, affect or discharge any contract, obligation, lien, or change  
14 for or upon which it might be liable had such change of boundaries not been made.

1    **BILL HISTORY**

2    1/21/00 First read in House and referred to committee assignment waived. H.J. 179

3    1/24/00 Referred to Local Government.

4    2/3/00 Scheduled for Committee hearing on this date.

5    2/8/00 Scheduled for Committee hearing on this date.

6    2/8/00 Local Government Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 505

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

883D0106

## HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **HB1250** - 2/9/00

Introduced by: Representatives Young, Clark, Derby, Diedtrich (Elmer), Duenwald, Duniphan, Earley, Eccarius, Engbrecht, Fiegen, Fitzgerald, Jaspers, Juhnke, Klaudt, Koskan, McCoy, McNenny, Michels, Napoli, Pummel, Richter, Sebert, Slaughter, and Sutton (Duane) and Senators Whiting, Benson, Bogue, Drake, Madden, Shoener, and Vitter

1 FOR AN ACT ENTITLED, An Act to provide for certain election or campaign finance reforms.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 12-25 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 A public employer is the state, any local government, government agency, government  
6 instrumentality, special district, joint powers authority, school board, or special purpose  
7 organization that employs one or more persons.

8 Section 2. That chapter 12-25 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 No public employer may collect, deduct, or transmit any money that will be used for partisan  
11 political activity. Money is deemed to be used for partisan political activity if it is expended or  
12 commingled with funds used for partisan political activity.

13 Section 3. That chapter 12-25 be amended by adding thereto a NEW SECTION to read as  
14 follows:

Political activity is:

- (1) The independent expenditure for communications advocating the election or defeat of a clearly identified partisan candidate for public office;
- (2) The participation in or intervening in any partisan political campaign on behalf of or in opposition to any candidate for partisan public office, any political party, or committee;
- (3) The support or opposition of any pending or proposed ballot measure, including the effort to collect signatures, direct mail and media campaigns, soliciting signatures for initiative or referendum petitions, or to discourage voters from signing petitions; or
- (4) Any contribution to the operation or expenses of a partisan political action committee.

Political activity does not include the activities that are necessary to fulfill statutory obligations to inform the electorate or the public about the candidates or issues to be voted upon in a forthcoming election.

Section 4. That chapter 12-25 be amended by adding thereto a NEW SECTION to read as follows:

If a person or organization has used any money collected, deducted, or transmitted by a public employer for partisan political activity, the public employer is prohibited from collecting, deducting, or transmitting any funds for that person or organization for any purpose for a period of two years.

Section 5. That chapter 12-25 be amended by adding thereto a NEW SECTION to read as follows:

An employee whose wages have been deducted in violation of this Act may sue to obtain injunctive relief against the violator, person, or public employer. An employee whose wages have been deducted in violation of this Act may sue to recover damages equal to:

- (1) The amount actually deducted from the employee's wages; and

1       (2)   Twice the amount actually received by the individual or organization from the injured  
2           public employee.

3       The remedies provided in this section do not preempt any other causes of action and damage  
4   awards which may be available to public employees as a result of any violation of this Act. This  
5   section does not abrogate or waive sovereign immunity. The court may award reasonable  
6   attorney's fees to an employee as part of a judgment to enforce this Act.

7       Section 6. That chapter 12-25 be amended by adding thereto a NEW SECTION to read as  
8   follows:

9       Any written or oral agreement, understanding, or practice between a public employer and any  
10   individual or organization that is in violation of this Act is void.

1    **BILL HISTORY**

2    1/21/00 First read in House and referred to State Affairs. H.J. 180

3    2/9/00 Scheduled for Committee hearing on this date.

4    2/9/00 State Affairs Do Pass Amended, Passed, AYES 7, NAYS 6.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

372D0405

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1251** - 2/9/00

Introduced by: Representatives Fitzgerald, Apa, Brooks, Brown (Jarvis), Burg, Chicoine, Clark, Crisp, Davis, Earley, Fischer-Clemens, Fryslie, Hagen, Kooistra, Lockner, Lucas, McCoy, McIntyre, Patterson, Peterson, Sebert, Slaughter, and Young and Senators Kleven, Drake, Lawler, and Vitter

1 FOR AN ACT ENTITLED, An Act to require secondary schools to offer parenting classes for  
2 academic credit.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Each public or nonpublic secondary school shall offer its students a course in parenting skills.  
7 The course may be for full or partial academic credit and may be a separate course or a  
8 component of a family and consumer sciences course, a health course, or other appropriate  
9 course.

1    **BILL HISTORY**

2    1/21/00 First read in House and referred to Education. H.J. 180

3    2/3/00 Scheduled for Committee hearing on this date.

4    2/3/00 Education Deferred to another day.

5    2/8/00 Scheduled for Committee hearing on this date.

6    2/8/00 Education Do Pass Amended, Failed, AYES 6, NAYS 6.

7    2/8/00 Report out of committee without recommendation as amended, AYES 10, NAYS 2.

8    H.J. 482



# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

665D0571

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1255** - 2/9/00

Introduced by: Representatives Smidt, Clark, Cutler, Duenwald, Eccarius, Engbrecht, McCoy, Napoli, Richter, and Roe and Senators Ham, Brown (Arnold), Everist, Halverson, and Lawler

1 FOR AN ACT ENTITLED, An Act to create the South Dakota Science and Technology  
2 Council.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby created the South Dakota Science and Technology Council. The  
5 purpose of the council is to enable the private sector, the academic sector, and state government  
6 to work together in advancing the state's technological future. The Council shall be comprised  
7 of thirteen members. The President Pro Tempore of the Senate shall appoint two members of the  
8 Senate, one from each political party; the Speaker of the House shall appoint two members from  
9 the House of Representatives, one from each political party; the commissioner of the Governor's  
10 Office of Economic Development shall serve; the South Dakota Board of Regents shall appoint  
11 four members to represent the academic sector; and the South Dakota Chamber of Commerce  
12 and Industry shall appoint four members to represent the private sector. The members shall serve  
13 for two years. A vacancy on the committee shall be filled by the original appointing authority for  
14 the remainder of the term.

15 Section 2. The South Dakota Science and Technology Council shall chose a chair from its

1 members. The committee shall meet at the call of the chair.

2 Section 3. The South Dakota Science and Technology Council shall employ an executive  
3 director funded through an existing grant. The council shall develop a plan for fiscal stability  
4 during the first year.

5 Section 4. The council's mission is as follows:

6 (1) Identify major opportunities for development of the state science and technology  
7 enterprise and to coordinate the implementation thereof;

8 (2) Facilitate technology transfer from the academic to private sector;

9 (3) Serve as a resource for public and private organizations within the state in their efforts  
10 to develop science and technology initiatives; and

11 (4) Serve as a voice for science and technology both within the state and at the federal  
12 level.

1    **BILL HISTORY**

2    1/24/00 First read in House and referred to committee assignment waived. H.J. 194

3    1/25/00 Referred to Education.

4    2/8/00 Scheduled for Committee hearing on this date.

5    2/8/00 Education Do Pass Amended, Passed, AYES 0, NAYS 0. H.J. 481

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

237D0773

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1261** - 2/9/00

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representatives Weber, Diedtrich (Elmer), Duenwald, Monroe, Sebert, and Waltman and Senators Lawler, Dunn (Rebecca), Flowers, Lange, Madden, Reedy, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to permit schools to display the Ten Commandments.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. An object or document containing the words of the Ten Commandments may be  
4 displayed in any public school classroom, public school building, or at any public school event,  
5 along with other objects and documents of cultural, legal, or historical significance that have  
6 formed and influenced the legal and governmental systems of the United States and the State of  
7 South Dakota. Such display of an object or document containing the words of the Ten  
8 Commandments:

9 (1) Shall be in the same manner and appearance generally as other objects and documents  
10 displayed; and

11 (2) May not be presented or displayed in any fashion that results in calling attention to it  
12 apart from the other displayed objects and documents.

1    **BILL HISTORY**

2    1/24/00 First read in House and referred to committee assignment waived. H.J. 195

3    1/25/00 Referred to State Affairs.

4    2/9/00 Scheduled for Committee hearing on this date.

5    2/9/00 State Affairs Do Pass Amended, Passed, AYES 0, NAYS 0.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

951D0191

## HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **HB1268** - 2/8/00

Introduced by: Representatives Brown (Richard), Brooks, Fiegen, Kooistra, Lucas, McCoy,  
and Peterson and Senators Brown (Arnold), Everist, Lange, and Lawler

1 FOR AN ACT ENTITLED, An Act to prohibit the sale of certain tobacco products from  
2 displays that are accessible to the public.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 No person may offer for sale cigarettes or smokeless tobacco in open displays which are  
7 accessible to the public without the intervention of a store employee. This section does not apply  
8 to any retail store which derives at least ninety percent of the store's revenue from tobacco and  
9 tobacco related products or to any establishment licensed under chapter 35-4 to sell alcoholic  
10 beverages for consumption on the premises where sold.

1    **BILL HISTORY**

2    1/24/00 First read in House and referred to committee assignment waived. H.J. 197

3    1/25/00 Referred to Health and Human Services.

4    2/7/00 Scheduled for Committee hearing on this date.

5    2/7/00 Health and Human Services Do Pass Amended, Passed, AYES 7, NAYS 4. H.J. 449

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0789

## HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **HB1292** - 2/9/00

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to establish the tobacco settlement fund and authorize  
2 certain expenditures from the fund.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is established within the state treasury the tobacco settlement fund. Any  
5 money received from the master settlement agreement signed on November 23, 1998, by  
6 attorneys general from the several states and various tobacco companies shall be deposited in the  
7 tobacco settlement fund. Expenditures from such fund shall be made only upon approval of the  
8 Legislature. The fund shall be declared a participating fund and all interest earned on the fund  
9 shall be credited to the tobacco settlement interest fund established in section 9 of this Act.

10 Section 2. There is hereby appropriated from the tobacco settlement fund the sum of four  
11 hundred thousand dollars (\$400,000), or so much thereof as may be necessary, to the Board of  
12 Regents for the replacement of the roof on the Dakota Dome at the University of South Dakota  
13 in Vermillion.

14 Section 3. There is hereby appropriated from the tobacco settlement fund the sum of two  
15 million dollars (\$2,000,000), or so much thereof as may be necessary, to the Department of  
16 Environment and Natural Resources for the cleanup of environmental damage at the Brohm mine



1 in Lawrence County.

2 Section 4. There is hereby appropriated from the tobacco settlement fund the sum of three  
3 million dollars (\$3,000,000), or so much thereof as may be necessary, to the Bureau of  
4 Information and Telecommunications for the upgrades and replacement of equipment necessary  
5 to comply with the Federal Communications Commission mandate to convert to digital television  
6 signals.

7 Section 5. The secretaries of the Department of Human Services and the Department of  
8 Environment and Natural Resources, and the commissioner of the Bureau of Information and  
9 Telecommunications, and the executive director of the Board of Regents shall approve vouchers  
10 and the state auditor shall draw warrants to pay expenditures authorized by this Act.

11 Section 6. Any amounts appropriated in this Act not lawfully expended or obligated shall  
12 revert to the tobacco settlement trust fund in accordance with § 4-8-21.

13 Section 7. Any funds in the tobacco settlement fund not otherwise appropriated shall be  
14 placed in the tobacco settlement trust fund created by section 8 of this Act.

15 Section 8. The tobacco settlement trust fund is established in the state treasury. The principal  
16 in the trust fund may not be expended. The fund shall be invested according to §§ 4-5-23 and  
17 4-5-26. Interest earned on money in the fund shall be deposited annually in the tobacco  
18 settlement interest fund created in section 9 of this Act.

19 Section 9. The tobacco settlement interest fund is established in the state treasury. The  
20 money in the tobacco settlement interest fund shall remain in the fund until appropriated by the  
21 Legislature. The fund shall be invested according to §§ 4-5-23 and 4-5-26.

1    **BILL HISTORY**

2    1/24/00 First read in House and referred to committee assignment waived. H.J. 201

3    1/25/00 Referred to State Affairs.

4    2/7/00 Scheduled for Committee hearing on this date.

5    2/7/00 State Affairs Deferred to another day, AYES 10, NAYS 3.

6    2/8/00 Scheduled for Committee hearing on this date.

7    2/8/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 4.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

179D0630

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB1300** - 2/9/00

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representatives Jaspers, Diedrich (Larry), Duenwald, Hanson, Juhnke, Napoli, and Wetz and Senators Symens and Benson

1 FOR AN ACT ENTITLED, An Act to create an office of agricultural policy.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 1-41 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 There is hereby created within the Department of Agriculture the office of agricultural policy.  
6 The office is responsible for researching and developing factual information on issues affecting  
7 the State of South Dakota and its agricultural industry. The office may develop briefing  
8 documents, policy statements, and other informational documents for the secretary of agriculture  
9 and the Governor on a variety of subjects, including:

- 10 (1) Federal legislative or regulatory issues;
- 11 (2) United States Department of Agriculture programs and policies;
- 12 (3) International trade and trade relations;
- 13 (4) Wetlands issues;
- 14 (5) Forestry and timber cutting issues;
- 15 (6) Endangered species issues;

- 1       (7)    Railroad issues;
- 2       (8)    Landowner rights issues;
- 3       (9)    Animal depredation issues;
- 4       (10)   Weed and pest control issues;
- 5       (11)   Wilderness designation and development areas;
- 6       (12)   Food quality, quantity, and protection issues;
- 7       (13)   Environmental management issues;
- 8       (14)   Wildland fire policy issues; and
- 9       (15)   Any other issue or problem designated by the secretary or the Governor.

1    **BILL HISTORY**

2    1/24/00 First read in House and referred to committee assignment waived. H.J. 202

3    1/25/00 Referred to Agriculture and Natural Resources.

4    2/5/00 Scheduled for Committee hearing on this date.

5    2/8/00 Agriculture and Natural Resources Hog Housed.

6    2/8/00 Scheduled for Committee hearing on this date.

7    2/8/00 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 11, NAYS 0.

8    H.J. 478

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

944D0698

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB1301** - 2/9/00

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representatives Jaspers, Duenwald, Hanson, Juhnke, Napoli, and Wetz and  
Senators Symens and Benson

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to meandered and  
2 unmeandered lakes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 43-17-2 be amended to read as follows:

5 43-17-2. Unless the grant under which the land is held indicates a different intent, the owner  
6 of the upland, if it borders upon a ~~navigable~~ meandered lake or navigable stream, takes to the  
7 edge of the lake or stream at low water mark. All navigable ~~rivers~~ streams and meandered lakes  
8 are public highways within fifty feet landward from the water's nearest edge, ~~provided that,~~  
9 However, the outer boundary of such public highway may not expand beyond the ordinary high  
10 water mark and may not contract within the ordinary low water mark, ~~and~~ subject to the  
11 provisions of §§ 43-17-29, 43-17-31, 43-17-32, and 43-17-33.

12 Section 2. That chapter 43-17 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 There is no public right to or interest in any unmeandered lake or any unnavigable stream.  
15 All rights and interests vest with the owner of the land beneath any unmeandered lake or

1 unnavigable stream.

2 Section 3. That § 43-17-29 be amended to read as follows:

3 43-17-29. If ~~any~~ the water level rises above the ordinary high water mark of a ~~navigable~~  
4 meandered lake, the right of the public to the enjoyment of the entire lake ~~may is not be~~ limited;  
5 ~~except that. However, the public may only~~ access to the lake ~~shall be~~ by public right-of-way or  
6 by permission of the riparian landowner and is subject to the provisions of §§ 43-17-2, 43-17-31,  
7 43-17-32, and 43-17-33.

8 Section 4. That § 43-17-31 be amended to read as follows:

9 43-17-31. The provisions of §§ 43-17-2 and 43-17-29 notwithstanding, any landowner may  
10 deny public access to ~~his taxable~~ private real property, including inundated property, if such  
11 property has been inundated for a period of at least three years, borders the water's edge, and  
12 lies above the ordinary high water mark of a ~~navigable~~ meandered lake that includes at least five  
13 thousand acres of inundated land in private ownership. A landowner who chooses to deny access  
14 to ~~his~~ inundated lake property pursuant to this section shall request the Department of Game,  
15 Fish and Parks to mark the boundaries of the affected property; and the department shall, upon  
16 request, clearly mark the restricted area so that the markings are plainly visible and  
17 understandable to ~~a user~~ anyone interested in the use of the lake. This section does not apply to  
18 public highways that are maintained for use by motor vehicles.

19 Section 5. That § 43-17-32 be amended to read as follows:

20 43-17-32. Any landowner may deny a state agency the use of ~~his taxable~~ private real  
21 property, including inundated property, if such property has been inundated for a period of at  
22 least three years, borders the water's edge, and lies above the ordinary high water mark of a  
23 ~~navigable~~ meandered lake that includes at least five thousand acres of inundated land in private  
24 ownership. Any state agency may allow public access for stated purposes to ~~taxable~~ private real  
25 property if the landowner has given ~~his~~ permission for such access and use and if all taxes paid

1 by the landowner on the property for the period in which the property is open to public use are  
2 reimbursed by the state agency. This section does not apply to public highways that are  
3 maintained for use by motor vehicles.

4 Section 6. That chapter 43-17 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 For the purposes of this chapter, a lake is meandered if, during the survey of this state,  
7 undertaken by the federal government for purposes of platting out the sections of land available  
8 for sale and use, the lake's existence was indicated on the survey maps by a meander line to  
9 delineate the sinuosities of the banks of the lake.



1    **BILL HISTORY**

2    1/24/00 First read in House and referred to committee assignment waived. H.J. 203

3    1/25/00 Referred to Agriculture and Natural Resources.

4    2/5/00 Scheduled for Committee hearing on this date.

5    2/8/00 Agriculture and Natural Resources Hog Housed.

6    2/8/00 Scheduled for Committee hearing on this date.

7    2/8/00 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 7, NAYS 5.

8    H.J. 479

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

291D0747

## HOUSE APPROPRIATIONS COMMITTEE

### ENGROSSED NO. **HB1310** - 2/9/00

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representatives Heineman, Apa, Duenwald, Eccarius, Fryslie, Hunt, Klaudt, Koskan, McCoy, Monroe, Napoli, and Young and Senators Madden and Vitter

1 FOR AN ACT ENTITLED, An Act to provide for a minimum teacher salary schedule.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Effective July 1, 2001, each school district shall adopt a teacher salary schedule  
4 that provides that the base salary for a first year teacher with a Bachelor's degree is twenty-three  
5 thousand two hundred dollars (\$23,200) and that the base salary for a first year teacher with a  
6 Master's degree is twenty-six thousand four hundred dollars (\$26,400). The salary schedule shall  
7 also provide for steps for years of experience and other intermediate steps for education between  
8 the Bachelor's degree and Master's degree.

9 Section 2. The Department of Education and Cultural Affairs shall pay each school district  
10 an amount of money equal to the increase in the school district's budget mandated by this Act  
11 less the amount of money by which the school district's most recent fiscal year ending general  
12 fund balance exceeds twenty percent of the school district's most recent fiscal year general fund  
13 expenditures.

14 Section 3. The obligation created by this Act shall be paid out of appropriations by the  
15 Legislature for the purpose of increasing teacher's salaries.

1       Section 4. The Department of Education and Cultural Affairs may promulgate rules pursuant  
2   to chapter 1-26 to determine the increase in school district budgets mandated by this Act and to  
3   provide for payments to school districts as provided in this Act.

1    **BILL HISTORY**

2    1/24/00 First read in House and referred to committee assignment waived. H.J. 204

3    1/25/00 Referred to Appropriations.

4    2/1/00 Scheduled for Committee hearing on this date.

5    2/1/00 Appropriations Deferred to another day.

6    2/7/00 Scheduled for Committee hearing on this date.

7    2/7/00 Appropriations Deferred to another day.

8    2/9/00 Scheduled for Committee hearing on this date.

9    2/9/00 Appropriations Do Pass Amended, Passed, AYES 10, NAYS 0.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

753D0730

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1315** - 2/9/00

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representatives Fiegen, Brooks, Brown (Richard), Clark, Crisp, Cutler, Davis, Derby, Diedrich (Larry), Fryslie, Hagen, Heineman, Juhnke, Lockner, McCoy, McNenny, Pummel, Sutton (Duane), Wetz, and Wilson and Senators Daugaard, Hainje, and Hutmacher

1 FOR AN ACT ENTITLED, An Act to authorize use of special education funds for initiatives  
2 at the South Dakota School for the Blind and the Visually Impaired and the South Dakota  
3 School for the Deaf.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 13-37-13 be amended to read as follows:

6 13-37-13. ~~Neither the~~ The secretary of the Department of Education and Cultural Affairs;  
7 ~~nor or~~ any school district ~~shall~~ may expend any public funds under the provisions of this chapter  
8 for the education of children in need enrolled in any state-owned institution, ~~except for~~ including  
9 transportation as provided in § 13-37-8.9. The provisions of this chapter may apply to approved  
10 programs and services provided by state universities and colleges, and for assignment to  
11 institutions outside of South Dakota for services not available within the state.

1    **BILL HISTORY**

2    1/24/00 First read in House and referred to committee assignment waived. H.J. 205

3    1/25/00 Referred to Education.

4    2/8/00 Education Hog Housed.

5    2/8/00 Scheduled for Committee hearing on this date.

6    2/8/00 Education Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 481

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0783

## HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **HJR1004** - 2/9/00

Introduced by: Representatives Eccarius and Klaudt

1 A JOINT RESOLUTION, Proposing and submitting to the electors at the next general election  
2 amendments to Article V, section 3 and 11 of the Constitution of the State of South Dakota,  
3 limiting the manner in which circuit court judges may be transferred and the boundaries of  
4 circuits may be altered.

5 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF  
6 SOUTH DAKOTA, THE SENATE CONCURRING THEREIN:

7 Section 1. That at the next general election held in the state, the following amendments to  
8 Article V, sections 3 and 11 of the Constitution of the State of South Dakota, as set forth in  
9 sections 2 and 3 of this Joint Resolution, which is hereby agreed to, shall be submitted to the  
10 electors of the state for approval.

11 Section 2. That Article V, section 3 of the Constitution of the State of South Dakota, be  
12 amended to read as follows:

13 § 3. The circuit courts consist of such number of circuits and judges as the Supreme Court  
14 determines by rule. No circuit judge may be permanently transferred or assigned to a circuit that  
15 does not include the judge's voting residence. This section does not prevent the expansion or  
16 consolidation of circuit boundaries.

1       Section 3. That Article V, section 11 of the Constitution of the State of South Dakota, be  
2       amended to read as follows:

3       § 11. The chief justice is the administrative head of the unified judicial system. The chief  
4       justice shall submit an annual consolidated budget for the entire unified judicial system, and the  
5       total cost of the system shall be paid by the state. The Legislature may provide by law for the  
6       reimbursement to the state of appropriate portions of such cost by governmental subdivisions.  
7       The Supreme Court shall appoint such court personnel as it deems necessary to serve at its  
8       pleasure.

9       The chief justice shall appoint a presiding circuit judge for each judicial circuit to serve at the  
10      pleasure of the chief justice. Each presiding circuit judge shall have such administrative power  
11      as the Supreme Court designates by rule and may, unless it be otherwise provided by law,  
12      appoint judicial personnel to courts of limited jurisdiction to serve at his pleasure. Each presiding  
13      circuit judge shall appoint clerks and other court personnel for the counties in his circuit who  
14      shall serve at his pleasure at a compensation fixed by law. Duties of clerks shall be defined by  
15      Supreme Court rule.

16      The chief justice shall have power to temporarily assign any circuit judge to sit on another  
17      circuit court, or on the Supreme Court in case of a vacancy or in place of a justice who is  
18      disqualified or unable to act. The chief justice may authorize a justice to sit as a judge in any  
19      circuit court.

20      The chief justice may authorize retired justices and judges to perform any judicial duties to  
21      the extent provided by law and as directed by the Supreme Court.

22      Section 4. The amendments in sections 2 and 3 apply retroactively to January 1, 1998.



1    **BILL HISTORY**

2    1/24/00 First read in House and referred to committee assignment waived. H.J. 205

3    1/25/00 Referred to State Affairs.

4    2/7/00 Scheduled for Committee hearing on this date.

5    2/7/00 Deferred by Chair.

6    2/9/00 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 5.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

995D0024

## SENATE RETIREMENT LAWS COMMITTEE

### ENGROSSED NO. **SB6** - 1/28/00

Introduced by: Senators Rounds, Albers, Brown (Arnold), Lawler, and Olson and  
Representatives Diedrich (Larry), Davis, Fiegen, Fischer-Clemens, and Michels  
at the request of the Interim Retirement Laws Committee

1 FOR AN ACT ENTITLED, An Act to provide for the increase of Class A employee and  
2 employer contributions to the South Dakota Retirement System.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 3-12-71 be amended to read as follows:

5 3-12-71. The member shall make a contribution and the employer shall make an equal  
6 contribution, except as otherwise specified, at the following rates:

7 (1) Class A members five percent of compensation through June 30, 2002, and six  
8 percent of compensation after June 30, 2002;

9 (2) Justices, judges, and law-trained magistrates nine percent of compensation;

10 (3) All other Class B members eight percent of compensation.

11 The employer shall cause to be deducted on each payroll of a member for each payroll period  
12 the contribution payable by the member as provided in this section.

13 ~~Effective July 1, 1984, contributions~~ Contributions required of members by this section shall  
14 be made by the participating unit pursuant to the provisions of § 414(h)(2) of the Internal  
15 Revenue Code of 1954, as amended and in effect on January 1, 1984. Such contributions shall

- 1 be classified as member contributions for all purposes under this chapter. A member may not
- 2 receive the amount of such contributions directly rather than as contributions under this section.

1    **BILL HISTORY**

2    1/11/00 First read in Senate and referred to Retirement Laws. S.J. 15

3    1/26/00 Scheduled for Committee hearing on this date.

4    1/26/00 Retirement Laws Do Pass Amended, Passed, AYES 5, NAYS 0. S.J. 220

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

883D0002

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB13** - 1/21/00

Introduced by: Senators Bogue, Dennert, and Shoener and Representatives Michels, Cerny,  
and Smidt at the request of the Interim Rules Review Committee

1 FOR AN ACT ENTITLED, An Act to revise the procedure to adopt administrative rules.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 1-26-4.3 be amended to read as follows:

4 1-26-4.3. No permanent rule may be adopted if more than seventy-five days have passed  
5 from the date the public hearing on the rule commenced. The agency shall appear before the  
6 interim rules review committee and present the proposed permanent rule to the committee within  
7 the seventy-five day period before the rule is filed with the secretary of state. If the interim rules  
8 review committee fails to meet on the proposed permanent rule during the seventy-five day  
9 period, and if the agency has complied with subdivisions 1-26-6(1) to 1-26-6(4), inclusive, the  
10 agency may complete the rules adoption process by complying with subdivision 1-26-6(5)  
11 notwithstanding subdivision 1-26-6(6). No emergency rule may be adopted if more than thirty  
12 days have passed from the date the notice of intent to adopt an emergency rule was published  
13 in the manner prescribed in § 1-26-4.1.

14 Section 2. That § 1-26-6 be amended to read as follows:

15 1-26-6. The adoption, amendment, or repeal of a rule is complete when:

16 (1) Ten days have passed since all the requirements of § 1-26-4 have been completed or,

1 if the rule is an emergency rule, three days have passed since all the requirements of  
2 § 1-26-5 have been complied with;

3 (2) It has been signed by a majority of the members of the multi-member body or by the  
4 officer having the authority to adopt it;

5 (3) It has been signed by the director;

6 (4) A copy has been filed with the director, in a form prescribed by the director to show  
7 amendments, deletions, and other changes to existing rules, for use in preparation of  
8 copy for the Administrative Rules of South Dakota; ~~and~~

9 (5) The rule and a certificate have been filed with the secretary of state. The certificate  
10 shall affirm that the rule filed is a true and correct copy of the rule as adopted and that  
11 the agency has complied with § 1-26-4 or 1-26-5, and with this section; and

12 (6) For a permanent rule, the agency has appeared and presented the proposed rule to the  
13 interim rules review committee.

14 Certificates required by this section shall be affidavits executed, under oath, by the officers  
15 authorized by statute to promulgate the rule. If a rule is promulgated by a multi-member body,  
16 the certificate shall be signed by its presiding officer.

17 Emergency rules are provisionally effective immediately after being filed. Notwithstanding  
18 § 15-6-6(a), all other rules are provisionally effective on the twentieth day after being filed, not  
19 counting the day of filing. In either case a later effective date may be specified as part of the rules  
20 being filed. A rule which is not yet effective or a provisionally effective rule may be suspended  
21 in the manner specified by § 1-26-38 any time prior to the first day of July of the year following  
22 the year in which it became, or would have become, effective. The rule's provisional status ends  
23 at that time, and it may not thereafter be suspended by the rules committee. Unless suspended,  
24 a provisionally effective rule shall be enforced by the agency and the courts as if it were not so  
25 conditioned.

1 No rule adopted after June 30, 1975, is valid unless adopted in compliance with § 1-26-4 or  
2 1-26-5, and this section and copies of it are made available to the public upon request, by the  
3 agency.

4 Section 3. That § 1-26-1.2 be amended to read as follows:

5 1-26-1.2. The interim rules review committee shall choose a ~~chairman~~ chair from its members  
6 and prescribe its rules of procedure. Meetings of the committee shall be at the call of the  
7 ~~chairman~~ chair or a majority of the committee.

8 On or before the first Monday following the last day of the legislative session, the committee  
9 and the agencies shall determine a schedule of dates for meetings to be held during the following  
10 twelve months. However, the committee is not required to hold a meeting if no proposed rules  
11 have been filed pursuant to subdivision 1-26-6(4) prior to the meeting.

12 The committee shall review all proposed agency rules and make recommendations to the  
13 agencies regarding rules and legislation authorizing rules and to the Legislature regarding  
14 administrative law. All meetings, regular or special, shall be open to the public and any interested  
15 person may be heard and present evidence.

16 Members of the committee shall be compensated for their attendance at meetings and for  
17 time spent in conduct of committee business at rates established by the Executive Board of the  
18 Legislative Research Council. The director of the Legislative Research Council, or one or more  
19 persons from ~~his~~ the director's office, shall act as secretary to the committee, or the committee  
20 may employ a secretary.

1    **BILL HISTORY**

2    1/11/00 First read in Senate and referred to State Affairs. S.J. 16

3    1/14/00 Scheduled for Committee hearing on this date.

4    1/17/00 Scheduled for Committee hearing on this date.

5    1/19/00 Scheduled for Committee hearing on this date.

6    1/21/00 Scheduled for Committee hearing on this date.

7    1/21/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 134

8    1/21/00 State Affairs Place on Consent Calendar.



# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0307

## HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB21** - 2/1/00

Introduced by: The Committee on Judiciary at the request of the Attorney General

1 FOR AN ACT ENTITLED, An Act to allow for additional public distribution of sex offender  
2 information.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-22-34 be amended to read as follows:

5 22-22-34. The Division of Criminal Investigation may make the file available to any regional  
6 or national registry of sex offenders. The division shall accept files from any regional or national  
7 registry of sex offenders and shall make such files available ~~when~~ if requested pursuant to  
8 §§ 22-22-30 to 22-22-39, inclusive. The division may compile regional or statewide registration  
9 lists for public inspection as provided by chapter 1-27 or public distribution, including electronic  
10 or internet distribution.

1    **BILL HISTORY**

2    1/11/00 First read in Senate and referred to Judiciary. S.J. 17

3    1/14/00 Scheduled for Committee hearing on this date.

4    1/14/00 Judiciary Do Pass, Passed, AYES 5, NAYS 1. S.J. 42

5    1/15/00 Senate Do Pass, Failed, AYES 14, NAYS 18. S.J. 61

6    1/15/00 Intent to reconsider. S.J. 61

7    1/18/00 Senate Reconsidered, AYES 27, NAYS 7. S.J. 69

8    1/19/00 Senate Deferred to another day. S.J. 120

9    1/20/00 Motion to Amend, Passed. S.J. 129

10   1/20/00 Senate Do Pass Amended, Passed, AYES 29, NAYS 5. S.J. 130

11   1/21/00 First read in House and referred to Judiciary. H.J. 185

12   1/31/00 Scheduled for Committee hearing on this date.

13   1/31/00 Judiciary Do Pass Amended, Passed, AYES 8, NAYS 5. H.J. 298

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0328

## SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB33** - 1/14/00

Introduced by: The Committee on Commerce at the request of the Department of Commerce  
and Regulation

1 FOR AN ACT ENTITLED, An Act to define the duty of insurers and rights of consumers with  
2 regard to auto insurance damage claims.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 58-12 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 For the purposes of this Act, paintless dent repair is any auto body repair that removes minor  
7 dents by using specifically designed tools to manipulate and flex the metal from the backside of  
8 the dent without the necessity of sanding, priming, or painting.

9 Section 2. That chapter 58-12 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 Any insurer providing commercial or personal motor vehicle insurance in this state  
12 responsible for repairing a damaged vehicle for which it is liable shall provide sufficient  
13 compensation to the insured to restore the vehicle to substantially the same physical condition  
14 as prior to the damage, regardless of whether the insured actually chooses to repair the vehicle.  
15 The insurer may adjust claims based in whole or in part upon the paintless dent repair method  
16 if:

- 1       (1)   The damage is such that the paintless dent repair method is likely to place the  
2           damaged area or a portion thereof in substantially the same condition as prior to the  
3           damage;
- 4       (2)   A paintless dent repair shop holding a South Dakota sales tax license is willing to  
5           perform the work as estimated within a reasonable time frame in the local market area  
6           of the insured; and
- 7       (3)   The written estimate provided to the insured prominently discloses the following:
  - 8           (a)   That the repair estimate is based in whole or in part upon the paintless dent  
9                repair method. Each item of damage adjusted using that method shall be  
10              identified;
  - 11           (b)   That paintless dent repair may not be the appropriate repair method for all  
12                types of damage;
  - 13           (c)   That, if the insurer is liable for the damage listed on the estimate, the insurer  
14                shall provide sufficient compensation to restore the vehicle to substantially the  
15                same physical condition; and
  - 16           (d)   That for any damage which paintless dent repair is appropriate, the insured may  
17                choose not to repair the vehicle or to have the vehicle repaired using a different  
18                method of repair. If the insured chooses either of these options, the insurer is  
19                liable only for the cost of the paintless dent repair method.

20       If, for any portion of the vehicle's damage that the insurer has a duty to repair, the paintless  
21       dent repair method is inappropriate, the insurer shall compensate the insured for the amount  
22       necessary to complete the repairs in the local market area of the insured. The insurer may not  
23       require the insured to travel an unreasonable distance to obtain a repair estimate or to have the  
24       vehicle repaired. The insurer may not name a repair shop as payee on a compensation check or  
25       draft unless agreed to by the insured.

1    **BILL HISTORY**

2    1/11/00 First read in Senate and referred to Commerce. S.J. 20

3    1/13/00 Scheduled for Committee hearing on this date.

4    1/13/00 Commerce Do Pass Amended, Passed, AYES 5, NAYS 0. S.J. 36

5    1/13/00 Commerce Place on Consent Calendar.

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

670D0431

SENATE JUDICIARY COMMITTEE

ENGROSSED NO. **SB117** - 2/1/00

Introduced by: Senators Staggers, Dennert, Flowers, Lange, Moore, Olson, and Symens and  
Representatives Monroe, Diedtrich (Elmer), Fischer-Clemens, Garnos, Klaudt,  
Slaughter, and Sutton (Duane)

- 1 FOR AN ACT ENTITLED, An Act to prohibit strip-searches for violations of curfew.
- 2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
- 3 Section 1. No person under the age of eighteen detained solely for a curfew violation may
- 4 be strip-searched.

1    **BILL HISTORY**

2    1/19/00 First read in Senate and referred to Judiciary. S.J. 114

3    1/21/00 Scheduled for Committee hearing on this date.

4    1/21/00 Judiciary Deferred to another day.

5    1/28/00 Scheduled for Committee hearing on this date.

6    1/31/00 Scheduled for Committee hearing on this date.

7    1/31/00 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 262

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

583D0281

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB153** - 1/24/00

Introduced by: Senators Moore, Flowers, Hutmacher, Olson, and Staggers and Representatives Napoli, Haley, Koehn, and Koetzle

1 FOR AN ACT ENTITLED, An Act to restrict the effect of certain provisions relating to the  
2 illegal sale of alcoholic beverages to underage persons.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. No person may be convicted of illegally selling any alcoholic beverage to any  
5 underage person pursuant to § 35-9-1 or 35-9-1.1, if the underage person was in possession of,  
6 and the seller relied upon, any false age-bearing identification document that was furnished to  
7 the underage person by any state or local law enforcement agency or any agent, employee,  
8 contractor, or associate of any state or local law enforcement agency for the purpose of  
9 attempting to illegally purchase any alcoholic beverage.



1    **BILL HISTORY**

2    1/20/00 First read in Senate and referred to Judiciary. S.J. 128

3    1/24/00 Scheduled for Committee hearing on this date.

4    1/24/00 Judiciary Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 175